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Office of the Inspector General

Kenneth S. Apfel
Commissioner of Social Security

Inspector General

Supplemental Security Income Underpayments Due Deceased Recipients

The attached final report presents the results of our review of the Supplemental Security Income (SSI) underpayments due deceased recipients (A-01-97-52006). The objective of our review was to determine whether the Social Security Administration must retain on its records indefinitely benefits due SSI recipients at the time of death.

You may wish to comment on any further action taken or contemplated on our recommendations. If you choose to offer comments, please provide them within the next 60 days. If you wish to discuss the final report, please call me or have your staff contact Pamela J. Gardiner, Assistant Inspector General for Audit, at (410) 965-9700.

David C. Williams

Attachment

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Office of the Inspector General

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Commissioner of Social Security

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Supplemental Security Income Underpayments Due Deceased Recipients

This report presents the results of our review of Supplemental Security Income (SSI) underpayments due deceased recipients. The objective of this review was to determine whether the Social Security Administration (SSA) must retain on its records indefinitely benefits due SSI recipients at the time of death.

Eligibility for SSI benefits ceases when a recipient dies. Ordinarily, underpayments due an SSI recipient at the time of death are not payable to a recipient's estate. However, underpayments can be paid to an SSI eligible surviving spouse, or to certain ineligible spouses or parents for up to 24 months after a recipient dies. SSA routinely remits such underpayments to survivors who meet certain requirements and request payment within 24 months of the recipient's death. In cases where no eligible survivor exists, or when the survivor does not request payment, the underpayment will remain on SSA's records indefinitely.

In conducting our review, we identified all underpayments of at least \$1 remaining on SSA's records for deceased individuals who were SSI recipients. Our extract identified 190,428 SSI underpayments totaling \$74 million that were due recipients at the time of death and recorded on SSA's records as of March 1997. From these 190,428 underpayments, we sampled 100 totaling \$34,284 for review. Of the 100 cases reviewed, no eligible survivor existed for any of the 100 sample items and none of the \$34,284 remained payable to any survivor at the time of our review. Projecting the results of our sample to the population, we are 95 percent confident that at least 186,094 SSI underpayments, with an estimated value of \$72.37 million, are no longer payable to any survivors and could be removed immediately from SSA's records.¹

¹ Although our review of 100 sample cases found that all 100 were no longer payable to anyone, sampling error resulted in our estimate of \$72.37 million instead of the \$74 million total value of the population.

Underpayments which are not payable to any survivor are being maintained on SSA's records indefinitely because SSA does not segregate underpayment cases with SSI eligible spouses from all other underpayments. SSI eligible spouses are excluded from the 24-month application deadline for receiving underpayments due deceased recipients. Since there is no application limit for SSI eligible spouses, these spouses remain eligible to receive the underpayments indefinitely. This policy results in all unclaimed underpayments being maintained on SSA's records indefinitely even when no one exists who would qualify to receive the underpayment. Maintaining underpayment records that are not payable to anyone results in SSA's subsidiary accounting ledgers inaccurately reflecting amounts payable and requires SSA to estimate the amount which is truly payable and which it reports in its financial statements.²

We recommend that SSA:

- Correct the approximately 186,094 SSI records with underpayments, worth an estimated \$72.37 million, which are not payable to anyone.
- Make a regulatory change to expand the 24-month application deadline to include SSI eligible spouses so that all future underpayments can be removed after expiration of the 24-month application deadline.

In response to our draft report, SSA agreed with our first recommendation, but stated that the intended results of the second recommendation could be obtained without pursuing a regulatory change. (SSA's comments are included in full as Appendix A.)

While we agree that it is possible for SSA to obtain the same result of correcting its records of underpayments not payable to anyone without a regulatory change, we still believe that making the regulations consistent for both SSI eligible spouses and other spouses would be administratively easier than segregating SSI eligible spouses when correcting the underpayment records. In the course of our financial statement audit, we will examine the effectiveness of this proposed corrective action and reconsider the need for a regulatory change at that time.

² At the exit conference, SSA officials stated that their records indicate that as of March 1997, there were approximately 906,000 SSI underpayments to deceased recipients totaling \$19.5 million. We were not able to reconcile our figures to this amount since we do not know the methodology used to calculate SSA's figures. The \$19.5 million is the amount SSA would use to adjust the accounts payable for reporting in its financial statements.

BACKGROUND

The Employment Opportunities for Disabled Americans Act (Public Law 99-643) expanded SSA's authority to remit benefits after the death of an SSI recipient. Specifically, this legislation authorized SSA to pay benefits due an SSI recipient to a surviving spouse regardless of the surviving spouse's SSI eligibility. Additionally, the legislation permits the parent of a disabled or blind SSI recipient who is deceased to receive a retroactive payment when due. Previously, only an SSI eligible spouse could receive a retroactive payment that was due a deceased SSI recipient.

SSI underpayments are payable to:

- an SSI eligible surviving spouse;
- an ineligible surviving spouse who lived in the same household with the underpaid person at any time in the month of death or during the 6-month period preceding the recipient's death; or
- a surviving parent who lived in the same household with the child at any time in the month of death or during the 6-month period preceding the recipient's death where the underpaid person was a disabled or blind child.

Title 20 of the Code of Federal Regulations (CFR) section 416.542 prohibits payment of SSI benefits to a survivor, other than an SSI eligible spouse, who requests the payment more than 24 months after the individual's death. This regulation responds to the need to set a reasonable administrative limit on the time a survivor may request payment of SSI benefits due a deceased individual. The limit for other than an SSI eligible spouse was set at 24 months to make the time the same as under the Old-Age, Survivors and Disability Insurance (title II) provisions of the Social Security Act for requesting a lump-sum death benefit. No time limit was set for SSI eligible spouses under these regulations.

SCOPE AND METHODOLOGY

The objective of this review was to determine whether SSA must retain on its records indefinitely benefits due SSI recipients at the time of death. To meet our objective, we: 1) obtained a legal opinion from the Office of the Counsel to the Inspector General, and 2) reviewed a sample of underpayments recorded on the records of deceased SSI recipients.

Our sample population consisted of 190,428 SSI underpayments valued at \$1³ or greater and recorded on SSA's records as of March 1997. All of the 190,428 cases had a payment code indicating that the recipient was deceased. From this population, we selected a simple random sample of 100 SSI underpayments. The total dollar value of our sample cases was \$34,284. Our non-statistical estimate of the dollar value of the population amounted to \$72.37 million and was calculated based on the projected number of underpayments which can be removed from SSA's records (186,094) multiplied by the average dollar value of each underpayment of \$388.87 (\$74,051,451 total value divided by 190,428 underpayments).

For each of our sampled cases, we determined whether any survivor was eligible to receive the underpayment and verified that there were no outstanding overpayments on the recipient's record which could offset the underpaid amount. In verifying whether any survivor was eligible to receive the underpayment, we reviewed the Supplemental Security record of the deceased recipient to identify any SSI eligible spouses.

We did not review the internal control procedures associated with recording of underpayments because they were not relevant to our audit objective. We did, however, review SSA's compliance with applicable laws and regulations. We conducted our review between July and November 1997 in Boston, Massachusetts. Our review was conducted in accordance with generally accepted government auditing standards.

RESULTS OF REVIEW

At the time of our review, no eligible surviving payees existed for any of the 100 sample items and all of the \$34,284 in underpayments in our sample cases could be removed from SSA's records. However, in the three following cases, there had been eligible payees for a 24-month period, but the underpayments were not claimed during that 24-month period and are no longer payable to any survivors. We could not determine whether SSA had notified these survivors of their eligibility to receive the underpayments since the case folders were no longer available.

³ We excluded underpayments of less than \$1 from our review since SSA will not pay an underpayment that is less than \$1. At the time of our review, there were 44,053 SSI underpayments which were each less than \$1 on SSA's records for a total value of \$18,163.

DATE OF DEATH	ELIGIBLE BENEFICIARY	UNDERPAYMENT CAUSE	CURRENT STATUS
10/01/87	Husband	Returned check ⁴ for \$340	Spouse who is not SSI eligible. Eligibility for receipt of underpayment expired 24 months after recipient's death.
06/02/89	Husband	Returned check for \$184	Spouse who is not SSI eligible. Eligibility for receipt of underpayment expired 24 months after recipient's death.
08/01/91	Mother	Returned check for \$344	Eligibility expired 24 months after recipient's death.

The 100 sample cases contained underpayments which totaled \$34,284. Projecting our results to the population of underpayments, we are 95 percent confident that 186,094 SSI underpayments, with an estimated value of \$72.37 million, are no longer payable to any survivors and could be removed immediately from SSA's records.

Existing SSA regulations require that underpayment amounts are payable indefinitely in cases in which there is an SSI eligible spouse. However, retaining the underpayment amounts indefinitely in cases in which there is no eligible payee results in unnecessary data storage costs and creates the appearance of a liability when in fact none exists.

If SSA segregated cases with SSI eligible spouses, the remaining cases could be automatically removed when the application time limit expires 24 months after a recipient dies. Alternatively, if SSA amended title 20 of the CFR, section 416.542(b) to extend the 24-month application deadline to SSI-eligible spouses, all net underpayment liabilities could be removed 24 months after a recipient's death. As noted on page 6, past SSA actions suggest that SSA has the authority to make this regulatory change.

⁴ The last check sent to the recipient was returned to SSA, creating an underpayment on the deceased recipient's record.

As SSA expressly noted in its final rules on payments due deceased SSI recipients in 58 Federal Register 52909, SSA chose to make "... several other changes that are unrelated to this legislation but which clarify longstanding policy or involve overpayment and underpayment issues." Further, SSA cited administrative convenience, as opposed to express statutory authority, to justify the 24-month application deadline. Thus, excluding SSI-eligible spouses from the time limit was a policy decision and SSA did not anticipate a statutory impediment to taking such a position. In fact, in its final rules in 58 Federal Register 52909, SSA noted that the 24-month application deadline "... responds to the need to set a reasonable administrative limit on the time a survivor may request payment of SSI benefits that may be due a deceased individual." We agree that such an administrative time limit is necessary and believe that the same time limit should be extended to all underpayments, including those payable to SSI-eligible spouses.

SSA prepares and presents its financial statements so that they are consistent with the requirements of the Federal Accounting Standards Advisory Board, the Office of Management and Budget (OMB) Circulars, and the Chief Financial Officers Act. OMB Circular A-134 requires that agencies apply Statements of Federal Financial Accounting Standards (SFFAS) in preparing financial statements. SFFAS

number 1 states that a liability is a probable and measurable future outflow of resources arising from past transactions or events.

The SSI underpayments described in this report are measurable and did arise as a result of past transactions. However, these underpayments are not probable outflows of resources since they are no longer payable (or were never payable) to any survivor. As such, these underpayments should not be recorded and reported as liabilities in SSA's financial statements. To ensure that these liabilities are not reported in the financial statements, SSA makes an adjusting entry for all underpayments payable on the records of deceased recipients. However, this adjustment is not made to the underlying records and does not segregate those records where the underpayment is a true liability from those which are no longer payable to anyone. If SSA were to adjust the individual records where no payee exists, there would no longer be a need for an overall adjusting entry for financial statement reporting and the subsidiary records would accurately reflect amounts payable to recipients and survivors.

RECOMMENDATIONS

We recommend that SSA:

1. Correct the approximately 186,094 SSI records with underpayments, worth an estimated \$72.37 million, which are not payable to anyone.
2. Make a regulatory change to expand the 24-month application deadline to include SSI eligible spouses so that all future underpayments can be removed after expiration of the 24-month application deadline.

AGENCY COMMENTS

In response to our draft report, SSA agreed with our first recommendation, but stated the intended results of the second recommendation could be obtained without pursuing a regulatory change. In this regard, SSA stated that actions being taken in response to our first recommendation will eliminate the need for a regulatory change. In the final rules published in 1986, SSA decided not to pursue a regulatory change to include eligible spouses in the 24-month limit for requesting payment of an underpayment for two reasons. First, SSA did not believe there would be a need to have a 24-month limit for eligible spouses, because the eligible spouse is on the record and our audit demonstrated that eligible spouses are paid within the 24-month limit. Second, SSA believes that it would be unfair to some surviving eligible spouses to place a 24-month limit on the period of time they have to apply for an underpaid amount solely to handle an administrative situation that would rarely occur.

OIG RESPONSE

While we agree that it is possible for SSA to obtain the same result of correcting its records of underpayments not payable to anyone without a regulatory change, we still believe that making the regulations consistent for both SSI eligible spouses and other spouses would be administratively easier than segregating SSI eligible spouses when correcting the underpayment records. In the course of our financial statement audit, we will examine the effectiveness of this proposed corrective action and reconsider the need for a regulatory change at that time.

David C. Williams

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SSA's COMMENTS

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For additional copies of this report, please contact the Office of the Inspector General's Public Affairs Specialist at (410) 966-9135. Refer to Common Identification Number A-01-97-52006.

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